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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/091,156 | 03/04/2002 | John G. Amery | BOEI-1-1035 | 6022 |
| 7590 | 08/23/2004 | | EXAMINER | |
| Michael S. Smith BLACK LOWE & GRAHAM PLLC 816 Second Avenue Seattle, WA 98104 | | | PIZIALI, JEFFREY J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2673 | 5 |

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/091,156 | AMERY ET AL. | |
| | Examiner | Art Unit | |
| | Jeff Piziali | 2673 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 June 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 March 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Newly amended (see the Amendment filed 1 June 2004) independent claims 1, 11, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationship pertains to the claimed subject matter of a lens having a focal length positioned between the operator and the video display at a distance that is less than the focal length of the lens. Specifically, the claimed limitation of the lens' positioned distance is structurally incomplete, so far as no explicit point of reference has been provided for measuring said distance to the lens. It would remain unclear to one skilled in the art what the distance from the lens is being measured to: Is the distance from the lens measured to the operator, to the video display, or to some other reference point (another lens, for instance)? There is no sure way of knowing from present claim language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Teitel (US 5,999,147).

Regarding claim 1, Teitel discloses a visual display system for producing a display image perceived as a far-focused virtual image by an operator, the display system comprising: a video image generation system including an image generator for generating a video signal (see Column 3, Lines 43-63); a video display [Fig. 5; 20], operatively connected to the image generator, for displaying a video image based on the generated video signal; and a lens [Fig. 5; 32] having a focal length positioned between the operator [Fig. 5; 42] and the video display at a distance that is less than the focal length of the lens (see Fig. 2; Column 4, Lines 31-58), wherein the operator perceives through the lens the displayed image as a far-focused virtual image [Fig. 5; 62] (see Column 5, Line 54 - Column 6, Line 65).

Regarding claim 2, Teitel discloses the lens is a positive aspheric lens (see Column 6, Lines 33-44).

Regarding claim 3, Teitel discloses the positive aspheric lens is a Fresnel type lens (see Column 6, Lines 54-65).

Regarding claim 4, Teitel discloses the lens is an achromatic lens (see Column 6, Line 66 - Column 7, Line 14).

Regarding claim 5, Teitel discloses the achromatic lens is a Fresnel type lens with color separation correction (see Column 6, Line 54 - Column 7, Line 14).

Regarding claim 6, Teitel discloses the lens has an associated focal length designed such that the displayed image viewed through the lens appears at a predetermined distance (see Column 6, Lines 1-32).

Regarding claim 7, Teitel discloses the lens includes a planar surface (see Fig. 5).

Regarding claim 8, Teitel discloses the lens is oriented substantially parallel to the video display and substantially perpendicular to a line extending from the operator's viewpoint (see Fig. 5).

Regarding claim 9, Teitel discloses the lens is one or more optical elements for producing a substantially distortion-free, collimated image (see Column 6, Lines 33-65).

Regarding claim 10, Teitel discloses the video display includes a flat-panel display (see Column 3, Lines 25-36).

Regarding claim 11, this claim is rejected by the reasoning applied in the above rejection of claim 1.

Regarding claim 12, this claim is rejected by the reasoning applied in the above rejection of claim 6.

Regarding claim 13, this claim is rejected by the reasoning applied in the above rejection of claim 7.

Regarding claim 14, this claim is rejected by the reasoning applied in the above rejection of claim 8.

Regarding claim 15, this claim is rejected by the reasoning applied in the above rejection of claim 2.

Regarding claim 16, this claim is rejected by the reasoning applied in the above rejection of claim 3.

Regarding claim 17, this claim is rejected by the reasoning applied in the above rejection of claim 4.

Regarding claim 18, this claim is rejected by the reasoning applied in the above rejection of claim 5.

Regarding claim 19, this claim is rejected by the reasoning applied in the above rejection of claim 9.

Regarding claim 20, this claim is rejected by the reasoning applied in the above rejection of claim 10.

Regarding claim 21, this claim is rejected by the reasoning applied in the above rejection of claims 1, 4, 6, and 7.

Regarding claim 22, this claim is rejected by the reasoning applied in the above rejection of claim 8.

Regarding claim 23, this claim is rejected by the reasoning applied in the above rejection of claim 5.

Regarding claim 24, this claim is rejected by the reasoning applied in the above rejection of claim 10.

Response to Arguments

5. Applicants' arguments filed 1 June 2004 have been fully considered but they are not persuasive. The applicants contend the cited prior art of Teitel (US 5,999,147) neglects to disclose a lens having a focal length positioned between the operator and the video display at a

distance that is less than the focal length of the lens. The examiner must respectfully disagree.

Teitel explicitly teaches a lens [Fig. 5, 32 and Fig. 2, 30 & 32] having a focal length ("about 30mm" -- see Column 5, Line 47) positioned between the operator [Fig. 5; 42] and the video display [Fig. 5; 20] at a distance ("the two lenses are separated by a distance of 2-3mm" -- see Fig. 2; Column 4, Lines 31-58) that is less than the focal length of the lens, wherein the operator perceives through the lens the displayed image as a far-focused virtual image [Fig. 5; 62] (see Column 5, Line 54 - Column 6, Line 65). Moreover, Teitel's lens would inherently be positioned at a distance to the operator less than the lens' focal length whenever the operator merely leans forward close enough to the lens (for instance, for the purpose of inspecting the lens for dust accumulation, or alternately, simply wiping the lens clean with a thumb).

By such reasoning, rejection of the claims is deemed necessary, proper, and thereby maintained at this time.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

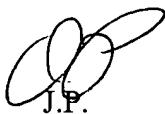
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Piziali whose telephone number is (703) 305-8382. The examiner can normally be reached on Monday - Friday (6:30AM - 3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703) 305-4938. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



19 August 2004



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